

REMARKS/ARGUMENTS

Claims 1-7 are currently pending in the present application.

Preliminarily, Applicant thanks Examiners Holmes and Evanisko for granting a telephone interview on January 5, 2009. During the interview the cited prior art was discussed in light of the currently pending claims. Specifically, the first and second display modes as recited in claim 1 were discussed relative to the teachings of the Nichols and Pless references.

In the Office Action dated September 26, 2008, the Examiner rejected claims 1-7 Under 35 U.S.C. § 103(a), as being unpatentable over Nichols et al. (U.S. Pat. 6,266,566) in view of Pless et al. (U.S. Pub. 2003/0144711).

Applicants have previously amended independent claim 1 to recite, in pertinent part, an external programming device for an implant including a receiving unit for receiving data from the implant representing time-variable signals intracardially recorded or generated in the implant, a touch-sensitive or pressure-sensitive display with an actuating unit adapted to represent signals forming the basis of the received data, the display including a representation window for display of a electrocardiograph representation and including a surface switching element beside the representation window, and a switching unit which is connected to the actuating unit of the display and adapted to switch the representation of continuous signals over time between a first representation mode and at least one second representation mode upon user actuation of the surface switching element (emphasis added).

Claim 1 also recites, in pertinent part, that representation of the time-continuous signals over time is effected in the first mode continuously in that current display values are always represented at the same horizontal display position and all preceding signal values are represented on the display, displaced horizontally towards the left or the right, and that representation of the continuous signals over time is effected in the second mode

continuously in that current signal values are respectively represented at a new display position of the display adjoining preceding signal values while preceding signal values maintain their respective display position (emphasis added). Such first and second modes, as claimed, are not shown or suggested by Nichols.

In the Office Action dated September 26, 2008, the Examiner stated that Nichols discloses an external programming device for an implant that comprises a receiving unit (222), a touch sensitive display (228) with an actuating unit (226), a switching unit (226), and at least two time-continuous horizontal display positions wherein the first display position is constant (Fig. 9, elements 272B, 274B, 276B; Col. 11, II. 14-30). The Examiner also stated that Nichols further discloses that the display has a representation window for displaying and ECG (e.g. 278B) and a surface switching element beside the representation window (generally shown on figure 10 below the 270B arrow; Col. 11, II. 14-30). Additionally, the Examiner stated that Nichols discloses that the whole screen is touch-sensitive (Col. 11, II. 31-36) and that Nichols further discloses multiple points on the touch-screen that are used to control, switch, and select the waveforms (Figs. 9-10).

However, the Examiner still has not addressed first and second modes of display, as claimed, which are not shown or suggested by Nichols. Nichols is merely concerned with waveform normalization control - scaling the waveform data points such that the peak-to-peak range (i.e., the maximum y-axis data value--the minimum y-axis data value) of the selected waveform does not exceed a pre-determined nominal height. The present application is concerned with switching a representation of continuous signals over time between a first representation mode that displaces value representations horizontally and a second representation mode that adjoins value representations to preceding signal values while preceding signal values maintain their respective display positions. For at least this reason, Applicants respectfully request that the Examiner withdraw his rejection of the claims.

None of the prior art of record shows or suggests an external programming device for an implant as recited in independent claim 1. Based upon the above, and previously

submitted arguments, applicants still believe that amended independent claim 1, and thereby claims 2-7, is patentable over the art of record and respectfully request that the Examiner reconsider this rejection and withdraw this rejection of the claims. Applicants believe that the application is in condition for allowance, and thus respectfully request a notice thereof.

The outstanding communication was issued September 26, 2008. The Examiner set a period for reply of 3 month from the mailing date. A petition for an extension of time for three months is believed to be required with the filing of this response, and is hereby requested. Additionally, the Applicants hereby make a conditional petition for any additional extensions of time for this response in the event that such a petition is required. In the event that a fee for the filing of his response is insufficient, the Commissioner is authorized to charge any fee deficiency or to credit any overpayment to Deposit Account 15-0450.

Respectfully submitted,

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